

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK (BROOKLYN)

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UNITED STATES OF AMERICA, :Case No.: 22-cr-0458
Plaintiff, :
v. :Brooklyn, New York
:October 13, 2022
:Time: 5:19 p.m. - 5:29 p.m.
XIN JIN, :
YANBIN CHEN, :
Defendants.:
-----:

TRANSCRIPT AND STATUS CONFERENCE HEARING
BEFORE THE HONORABLE PEGGY KUO
UNITED STATES MAGISTRATE JUDGE

APPEARANCES:

For Government: UNITED STATES ATTORNEY'S OFFICE
BY: Benjamin Weintraub, AUSA
271-A Cadman Plaza East
Brooklyn, New York 11201

For Defendant: ZEMAN & WOMBLE, LLP
Xin Jin BY: Kenneth Womble, Jr., Esq.
20 Vesey Street - Room 400
New York, New York 10007

For Defendant: THE LAW OFFICE OF CHARLES ALVAREZ
Yanbin Chen BY: Charles Alvarez, Esq.
563 West 139th Street
New York, New York 10031

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Transcript produced by transcription service

1 THE DEPUTY CLERK: Criminal cause for
2 arraignment; case number: 22-cr-458, United States
3 versus Yanbin Chen and Xin Jin.

4 Counsel, starting with government, please
5 state your appearances.

6 MR. WEINTRAUB: Good afternoon, Your Honor.
7 Benjamin Weintraub for the United States.

8 MR. WOMBLE: For Xin Jin, Ken Womble. Good
9 evening, Your Honor.

10 THE COURT: Good evening.

11 MR. ALVAREZ: Good evening. Charles Alvarez
12 on behalf of Mr. Yanbin Chen, who's present to my left.

13 THE DEPUTY CLERK: Also Present is a Mandarin
14 interpreter, Nancy Wu. Please be sworn.

15 THE INTERPRETER: Yes.

16 THE COURT: Mr. Chen and Mr. Jin, the purpose
17 of the proceeding today is to make sure you understand
18 your rights and what you're charged with and to
19 determine whether you should be released on bail or
20 held in jail.

21 You have the right to remain silent. You
22 don't need to make any statements. If you've made any
23 statements, you don't need to make anymore. If you
24 start to make a statement, you can stop at any time.
25 Any statements you do make can be used against you.

1 You have the right to an attorney. If you
2 cannot afford one, the Court will appoint someone to
3 represent you.

4 Mr. Chen, you've submitted a financial
5 affidavit, and based on that information, I see that
6 you are eligible to have a court-appointed lawyer, and
7 I will appoint Mr. Alvarez to represent you.

8 Mr. Jin, according to your financial
9 affidavit, you, too, are entitled to a court-appointed
10 lawyer, and I will appoint Mr. Womble to represent you.

11 Mr. Chen, you have been charged by a grand
12 jury with conspiracy to commit bank fraud, bank fraud,
13 conspiracy to operate an unlicensed money transmitting
14 business, operation of an unlicensed money transmitting
15 business, conspiracy to commit money laundering, money
16 laundering, conspiracy to commit passport fraud and
17 passport fraud.

18 Did you receive a copy of the indictment?

19 DEFENDANT CHEN: Yes, I have.

20 THE COURT: Did you have a chance to talk to
21 your lawyer about the indictment?

22 DEFENDANT CHEN: Yes, I have.

23 THE COURT: Do you understand what you're
24 being charged with?

25 DEFENDANT CHEN: I do.

1 THE COURT: Do you want me to read the charges
2 out loud or do you waive a public reading?

3 DEFENDANT CHEN: You do not need to read it to
4 me.

5 THE COURT: How do you plead to the charges in
6 the indictment; guilty or not guilty?

7 DEFENDANT CHEN: I plead not guilty.

8 THE COURT: All right. Thank you.

9 Mr. Jin, you have been charged by a grand jury
10 with conspiracy to commit bank fraud, bank fraud,
11 conspiracy to operate an unlicensed money transmitting
12 business, operation of an unlicensed money transmitting
13 business, conspiracy to commit money laundering, money
14 laundering, conspiracy to commit passport fraud and
15 passport fraud.

16 Did you get a copy of the indictment?

17 DEFENDANT JIN: Yes, I have.

18 THE COURT: Did you have a chance to talk to
19 your lawyer about it?

20 DEFENDANT JIN: Yes.

21 THE COURT: Do you understand what you're
22 charged with?

23 DEFENDANT JIN: Yes, I do.

24 THE COURT: Do you want me to read the charges
25 out loud or do you waive a public reading?

1 DEFENDANT JIN: I do not need that.

2 THE COURT: How do you plead to the charges;
3 guilty or not guilty?

4 DEFENDANT JIN: Not guilty.

5 THE COURT: I will now remind the prosecution
6 of its obligation under *Brady v. Maryland* and its
7 progeny to disclose to the defense all information,
8 whether admissible or not, that is favorable to the
9 defendant, material either to guilt or to punishment,
10 and known to the prosecution.

11 The prosecution must make good faith efforts
12 to disclose such information to the defense as soon as
13 reasonably possible. I will be entering a written
14 order that more fully describes this obligation and the
15 possible consequences of failing to meet it, and I
16 direct the prosecution to review and comply with that
17 order.

18 Mr. Weintraub, does the prosecution confirm
19 that it understands its obligations and will fulfill
20 them?

21 MR. WEINTRAUB: Yes, Your Honor.

22 THE COURT: All right. Thank you.

23 Is the government seeking detention in this
24 case?

25 MR. WEINTRAUB: Yes, Your Honor. Both of the

1 defendants are similarly situated here with respect to
2 the detention argument. Both of them are chinese
3 citizens.

4 Yanbin Chen has a green card. However, Xin
5 Jin does not. He is in this country unlawfully. And
6 more importantly, both of them are charged with
7 passport fraud. Both of them have access to fake
8 passports and have used fake passports in furtherance
9 of the crimes with which they are charged. The
10 evidence against them in respect to those charges is
11 very strong. And for that reason, as the indictment
12 lays out, the detention memo lays out, these
13 individuals regularly use fake passports. They create
14 bank accounts under fake names. They conduct
15 transactions using fake passports. They're not U.S.
16 Citizens. They present a tremendous flight risk,
17 especially given that the country that they are
18 citizens of, China, is not a country that would
19 extradite, certainly not one of their own citizens.

20 And so the access to fake passports, it's not
21 just like one fake passport. The investigation has
22 shown that they have access to multiple fake passports,
23 and the lack of citizenship presents a tremendous
24 flight risk.

25 THE COURT: So is the basis of the detention

1 that they pose a serious flight risk?

2 MR. WEINTRAUB: Yes, Your Honor.

3 THE COURT: All right. I'll hear from the
4 defendants.

5 MR. WOMBLE: Your Honor, on behalf of Mr. Jin,
6 we are consenting to detention at this time, but we
7 would request the opportunity to raise the issue of
8 bail once we're able to have more appropriate time to
9 try to put a package together.

10 THE COURT: All right. So based on the
11 information that I've been given, I find that the
12 defendant does pose a serious risk of flight and that
13 there are no conditions or set of conditions that can
14 assure his appearance in court.

15 So I will order his detention with leave, of
16 course, to make a bail application if you have further
17 information.

18 And with regard to Mr. Chen?

19 MR. ALVAREZ: Thank you, Judge.

20 On behalf of Mr. Chen, I have received the
21 government's detention motion and Pretrial's bail
22 report, which, likewise, recommends detention. So we
23 will consent to detention without prejudice to return
24 on short notice with a bail package once we are able to
25 put one together.

1 THE COURT: All right. So, similarly, I find
2 that there is a serious risk of flight, and there are
3 no conditions or set of conditions that will assure
4 that Mr. Chen will appear in court.

5 So I will order his detention with leave to
6 make a bail application as you develop further
7 information.

8 MR. ALVAREZ: Thank you.

9 THE COURT: All right. Is consular
10 notification appropriate in this case?

11 MR. WEINTRAUB: It is. It has been provided.

12 THE COURT: Okay. Thank you.

13 Is there anything else from either defendant?
14 Mr. Womble?

15 MR. WOMBLE: Nothing further on behalf of Mr.
16 Jin.

17 THE COURT: Mr. Alvarez?

18 MR. ALVAREZ: Nothing on behalf of Mr. Chen.

19 THE COURT: And from the government?

20 MR. WEINTRAUB: No, Your Honor.

21 THE COURT: All right. Thank you, everyone.
22 Sorry. Okay. Apologies.

23 MR. WEINTRAUB: We do have an initial status
24 conference before Judge DeArcy Hall on November 14th at
25 9:30 a.m.

1 THE COURT: And I see that there's a request
2 to exclude time.

3 MR. WEINTRAUB: Yes, Your Honor. The
4 government has filled out the form, as has counsel for
5 the defendants, and I believe the defendants have
6 signed the form. And there is a motion to exclude time
7 between now and then so that the government can make
8 some discovery, and, perhaps, engage in some
9 discussions with defense counsel regarding a possible
10 resolution of this matter short of trial.

11 THE COURT: All right. And Mr. Alvarez?

12 MR. ALVAREZ: That's correct, Judge.

13 THE COURT: Okay. Let me advise your clients
14 what this means.

15 Under the Speedy Trial Act, you're entitled to
16 have a trial within 70 days. Your lawyers and the
17 lawyers for the government have agreed not to count the
18 time between now and November 14th in those 70 days.
19 They say that they need more time to discuss your case,
20 with the possibility that they can resolve it without
21 the need for trial.

22 Do you agree not to count the time between now
23 and November 14th? Mr. Chen?

24 DEFENDANT JIN: Yes.

25 THE COURT: And Mr. Jin?

1 DEFENDANT CHEN: Yes.

2 THE COURT: All right.

3 MR. ALVAREZ: Judge, just to -- I apologize,
4 Judge. This is Mr. Chen. Did you say Jin or Chen?

5 THE COURT: I said Mr. Chen first and then Mr.
6 Jin.

7 MR. ALVAREZ: I think we may have answered it
8 out of order.

9 THE COURT: Okay. As long as both of them
10 said "yes" I think that is fine.

11 All right. So I find that the ends of justice
12 are served by excluding the time between now and
13 November 14th, and I will sign these orders of
14 excludable delay.

15 Thank you very much.

16 MR. ALVAREZ: Thanks, Judge.

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C E R T I F I C A T E

I, Adrienne M. Mignano, certify that the foregoing transcript of proceedings in the case of United States of America v. Xin Jin, et al, Docket #22CR458 was prepared using digital transcription software and is a true and accurate record of the proceedings.

Signature Adrienne M. Mignano
ADRIENNE M. MIGNANO, RPR

Date: March 20, 2024